

# Impeachment, Insubordination, and World War III

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Who can start World War III by firing nuclear weapons, and who can veto such a firing? These have always been important questions, and never have been fully answered. At earlier times, concern was expressed that some General or Colonel might take such an initiative when the President of the United States was trying to prevent it; has the U. S. strategic and tactical arsenal been sufficiently disciplined and padlocked so that this is no longer a threat?

To compound our difficulties, we more recently have seen the ~~present~~ <sup>resignation and</sup> ~~arise of an~~ <sup>near-</sup> impeachment of the President, amid <sup>reports</sup> ~~charges~~ that <sup>Richard Nixon</sup> ~~the incumbent~~ was bearing up badly under the psychological stress. Would it be possible for one man <sup>as Chief Executive</sup> to plunge the world into a nuclear holocaust as part of his own Gotterdammerung? What legal or social or physical barriers might relieve us of this concern? Can it be that in relieving our concern about mad World War III's launched by Generals, we <sup>have</sup> ~~devoted~~ too little concern to such wars begun by Presidents? This paper will attempt to review the safeguards discussed and developed ten to fifteen years ago to see what they offer us now.

One plunges quickly here into an allegorical jargon of "triggers" and "safety-catches," and moves along into a catalog of Permissive Action Links (PAL) and validating codes and "fail-safe" or "positive control" procedures. Rigorous logical analysis might distinguish between the power to

Rosalee Jones  
Hiller  
Connerman  
DBP



require ~~or force~~ the launching of nuclear war, and the power to ~~veto~~ prevent it, the latter sorting into vetoes requiring positive action, and vetoes automatically in effect unless one takes positive action. One must also enter the nasty world of contingencies here. What if the President were killed by the first Soviet missile? What if enough of the rest of the government were killed to blur the legal sequence of succession to office? What if the President were disabled, physically or mentally?

A power to require the use of nuclear weapons, or to forbid their use, can further be sorted conceptually into legal power, physical power, and social power. Who is legally entitled to make such choices? Almost certainly, the Constitution makes the President the Commander-in-Chief here for nuclear war just as much as for conventional war. But what are the relevant precedents then?

*Consider possibility that it does not! (mass murder + suicides!)*

A very separate question is physical power. Does the President have a button on his desk which can fire missiles off automatically? Or does he have a combination in his safe without which no missile can be fired? Each of these are conceivable, although neither probably exists. There is no necessary congruence between the locus of this kind of power and the locus of legal power.

*NO*

Where the President or anyone else lacks the direct physical control over weapons, he may have a societal control nonetheless, in that other human beings are likely to wait for and obey his orders, in using weapons, or withholding them from use. This then would be a substitute for physical power, almost as reliable perhaps, although requiring the motivation of some intervening actors. Again there is no necessary congruence between this kind of power and the locus of legal power, although assumptions about

legal authority obviously play an important role in getting orders obeyed.

### Presidential Control

The extreme model of total civilian control has just been mentioned, giving the President the full physical control over weapons that might seem appropriate to the U. S. Constitution. At the least, we might admire the physical veto that would be embodied in a numerical code that ~~only~~ he alone carried with him in his vest pocket, a code that every soldier, sailor and airman would have to obtain to dial into his nuclear warheads before they could be detonated. We might worry more about any magic button on the President's desk that also gave him the direct physical ability to fire weapons.

Yet even the direct veto control in the President's pocket would surely be unacceptable, if only because it might give the Russians or another potential enemy a veto as well; World War III might be much more likely if all the U. S. nuclear weapons could be preemptively eliminated by a single bomb on the White House, or by an assassin's shotgun attack. We are thus caricaturing the range of choice with this polar extreme which might be labelled "super-PAL," since no nuclear power can really dare to adopt it. The ability to fire American nuclear weapons must be physically distributed at least enough to make it impossible for an enemy to see any easy way to exploit American controls for his own purposes in beginning a war.

*Media cooperates, however, in "Keep the Public confused..."*



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This kind of aversion to fuller controls indeed goes beyond a rejection of super-PAL. One could imagine installing self-destruct devices in all American strategic missiles, so that the President or someone else could call off a nuclear war even after the missiles have been launched, in case a mistake was made, in case one has changed his mind. Yet the fear has all along been cited that this might also enable the Soviet Union to decipher the crucial radio signal needed to destroy such missiles, thus giving them a functional anti-missile defense paid for by the American taxpayer, thus enabling them to begin a nuclear war in hopes of escaping retaliation.

*8 traps here;  
above 7  
STOP code*

The issue of Presidential <sup>Presiden</sup> ~~succession~~ complicates this ~~kind of issue~~ in several ways. First, when a President has been killed, perhaps as part of an enemy missile attack, the services may not want to be burdened with tracking down his successor for authority to fire in retaliation. What if the same Soviet missile had also killed the Vice President and the Speaker of the House? Who can remember exactly who is next in line, and who will know where he is at the moment? Common sense about the way retaliation has to be structured may make many or most Americans willing to tolerate a nuclear strike which has not been "authorized by the President" in such a case. And second, a very thorough Soviet first-strike might indeed have killed all the Americans on the list of succession specified by Congress. We will come back later to the question of whether doubts about succession can ever inhibit nuclear war.

*This could  
be handled.*

One gets into more serious political terrain with arguments about the "trip-wire" function of tactical nuclear weapons. How do these weapons deployed in West Germany contribute to American interests? It is claimed



that their intended function is to help defeat the Russian invaders in a limited war, that their purpose is defense. Yet it is often argued that their real purpose is deterrence, by their very presence to make it more credible that a Soviet advance would have to lead to nuclear escalation. The latter argument depends heavily on the assumption that an American President would be reluctant to risk World War III in response to a limited Soviet probe, but that his hands would be tied by the presence of tactical nuclear forces in the combat zone, weapons which would come into use even if the White House were at the end opposed. The artillery of all the world has a tradition of never letting its ammunition be captured, of firing it off at the enemy instead. Would not some brave young Captain of Artillery take the initiative in such a case, as his batteries were about to be overrun, firing off some nuclear rounds, with all the risk of further escalation to World War III that this implies? Is this not what deters the Soviet Union from embarking on such aggressions in the first place? Yet the whole deterrent scenario would lose its meaning if it were clearly announced that the President or even the Joint Chiefs of Staff (JCS) in Washington retained the physical capability for preventing such rounds from being detonated at the last moment.

Pursuing the World War III scenario a little further, one should note that a "launch-on-warning" policy of retaliation certainly leaves no place for prior Presidential approval, much less Congressional action, if it really involved firing off missiles in response to radar signals of incoming Soviet missiles. Arms controllers may quite rightly condemn any such launch-on-warning policies as unacceptably destabilizing, given



the inherent risks of erroneous signals appearing on radar scopes. Yet can one ever be certain that this logic has reached and convinced all the persons that matter on the subject? Even some liberal opponents of ABM at one point seemed to endorse launch-on-warning. More recently, Fred C. Ikle <sup>published</sup> wrote a critique of deterrence ~~which was published~~ just before he became Director of the Arms Control and Disarmament Agency, an article which contends that launch-on-warning may be more a part of U. S. policy than many of us had realized. <sup>(1)</sup> There is a general shortage of unclassified information on U. S. strategic targetting policies, and launch policies; it is frighteningly possible that such policies do not get properly monitored by Congress or President or public.

One of the more pessimistic assumptions suggested in the Ikle article is that delayed retaliation by Polaris or Minuteman, even if physically assured on second-strike, would not be politically reliable or credible. The President of the United States supposedly cannot be counted upon to order retaliatory devastation a week or two after the Russian strike, for his anger might have cooled, and his rationality would stand in the way of such revenge.

A parallel question arose more pressingly with regard to ABM, for here one surely would not have wished to wait for Presidential authority before despatching a defensive nuclear warhead to intercept and destroy an incoming warhead. One criticism of ABM, not the most important criticism, was thus that it would necessarily erode the prior requirement for Presidential approval before firing. <sup>(2)</sup>



Well then, does the President have the physical power to prevent nuclear war, or the social influence, along with the legal authority? How much authority over our nuclear arsenal does he have, and is it enough? Is it too much? One can <sup>find</sup> ~~see~~ at least two important official statements on this question, the first in a speech by President Johnson during his 1964 campaign for reelection against Barry Goldwater:

NO  
First, we have worked to avoid war by accident or miscalculation. I believe the American people should know the steps that we have taken to eliminate the danger of accidental attack by our strategic forces, and I am going to talk about that tonight. The release of nuclear weapons would come by Presidential decision alone. Complex codes and electronic devices prevent any unauthorized action. Every further step along the way from decision to destruction is governed by the two-man rule. Two or more men must act independently and must decide the order has been given. They must independently take action. An elaborate system of checks and counterchecks, procedural and mechanical, guard against any unauthorized nuclear bursts. In addition, since 1961 we have placed permissive-action links on several of our weapons. These are electromechanical locks which must be opened by secret combination before action at all is possible, and we are extending this system. The American people and all the world can rest assured that we have taken every step man can devise to insure that neither a madman nor a malfunction could ever trigger nuclear war.

③

One might note the phrase "by Presidential decision alone," which might have sounded far more reassuring in 1964 than in 1974. The second major statement, referring this time to "the national authorities" came in testimony prepared for Secretary McNamara and presented by his successor Clark Clifford in Congressional hearings of 1968:



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NO Finally, we undertook an extensive program to improve and make more secure the command and control of our strategic offensive forces. Among the measures taken was the establishment of a number of alternate national command centers, including some which would be maintained continuously in the air so that the direction of all our forces would not have to depend upon the survival of a single center. Steps were also taken to enhance the survivability, reliability and effectiveness of the various command and communications systems, including, for example, provision for the airborne control of bomber, MINUTEMAN and POLARIS launchings. These were all forged into a new integrated National Military Command System. To guard against accidental or unauthorized firings, new procedures, equipment and command arrangements were introduced to ensure that all nuclear weapons could be released only on the positive command of the national authorities.

(4)

One has additional bits and pieces of testimony from Congressional Hearings, and occasional accounts of the command and control system in books based on information provided by the Department of Defense. (5) The latter genre sometimes is quite vehement in asserting that the system is perfectly capable of supplying the essential commodities, a sure guaranty against accidental or unauthorized launchings of nuclear war, and a sure guaranty that any Russian attack would be retaliated against.

One could however almost at the dawn of arms control literature already have found a clear case that we cannot have a perfect arrangement on one of these categories without risking the other. For example Thomas Schelling's chapters 9 and 10 in The Strategy of Conflict on "The Reciprocal Fear of Surprise Attack" and "Surprise Attack and Disarmament." (6)

In the officially-sponsored books, along with press accounts, and some movie scripts and novels as well, much is made of the set of codes for launching a nuclear war which are always kept near the President as he



travels about. Yet it is reasonably clear that these are not some sort of enabling code, without which military officers could not arm their nuclear warheads, but rather an authenticating ~~enabling~~ code, demonstrating for the officers receiving the message that it was indeed the President who transmitted it. This necessarily begs the question of whether some other ways might be found to <sup>authenticate</sup> ~~validate~~ a message to launch nuclear war, for example reliable news that the President had been killed, and/or that nuclear warheads had fallen on Washington and other major American cities.

i.e. that  
Pres has  
made a  
choice of  
response -  
"for what that  
is worth to  
you."

Such a code signal must apparently also then move from SAC headquarters to the various missile siloes and bomber bases to commit them to war. Again it is left unclear whether an enabling signal is involved, or merely <sup>an authenticating</sup> ~~a validating~~ signal. We are assured that various backup signal-transmitter locations are provided in case the first one should be knocked out, including one constantly aloft. We are also assured that none of these could wrongfully despatch a nuclear attack, but that each is automatically enabled to despatch such an attack when the responsibility properly devolved upon it in the event of enemy efforts at preemption. Once again we are offered our perfect compromise that loses nothing, never launching retaliation in error, never failing to launch it when needed. Some skepticism is irrepressible here, when the account is as unhesitatingly approving as Lloyd Mallan's:

The order to launch ICBMs can only be authorized by the President of the United States. Once that fateful order is authorized, it is executed by the Commander-in-Chief of the Strategic Air Command, who must first authenticate the authorization. The authentication then simultaneously travels as coded launch orders through multiple communications networks to the missile command posts, where again it must be verified in terms of the code. At the same time, the combat missile control centers are receiving and verifying the code. Even after the code has been verified throughout the vast interlocking system, no combat crew at an ICBM site can launch a missile until electronic devices at the site receive what are known as "launch-enabling signals." These can be transmitted only by the Underground Command Post at SAC Headquarters. In the unlikely event that the key command post should be destroyed by enemy action, the electronic capability to launch or prevent a launch of ICBMs would *automatically* switch to other key command posts. If these should also be destroyed by an enemy, the automatic system would immediately switch the capability to alternate control points. SAC has more than 80 command posts, both ground-based and airborne, throughout the Northern Hemisphere. (7)

Similar ambiguities and problems arise vis-à-vis the Polaris submarines. Various accounts indicate that the positive action of two, or indeed three, officers will be required to launch any Polaris or Poseidon missiles. One book mentions three officers needed to decode the message <sup>an authenticating</sup> (~~a validating~~ or enabling message?) for firing, and then two to do the physical firing; presumably the latter involves something like the turning of keys at locations physically remote from each other through the hull of the submarine. Certainly this amounts to an abridgement of the traditional authority of the "captain of the ship." An executive officer who ignored his Captain's order to fire missiles would not be guilty of



insubordination, when no Presidential message had been received for such a firing.

One intuitively senses that the submarine should present more command-and-control risks than land-based missiles. One <sup>can</sup> ~~could~~ saturate a missile complex with Air Police, and equip it with redundant underground wire communications channels, to reinsure one's self against an unauthorized firing. The size of the submarine precludes putting a police veto element on board, beyond the reasonable "collective leadership" sketched out above, and the deployment of such submarines far from home at least in principle raises the risk that communications from Washington might <sup>(Some say)</sup> be garbled enough ~~to convince~~ to convince reasonable men that an unauthorized attack nonetheless was appropriate. This must all be balanced, of course, against the inherently greater vulnerability of land-based missiles to Soviet preemptive attack.

The insurance against local junior-officer insubordination has been described fairly specifically in the land-based missile case, involving a minimum of two teams of two men to launch a strike, the teams located remotely from each other, the individuals within each team moreover being out of pistol-range of each other, such that a single mad officer could <sup>also - "but again"</sup> presumably not even coerce his partner into the initiation of World War III. (9) -

Less specific accounts are available for tactical nuclear weapons and other forward-based nuclear systems, with the description sometimes going to "two-key" systems (but what would keep someone, American or German, from overpowering the holder of the other key?) and sometimes to numerical combinations on PAL--permissive action link--systems, combinations which presumably this time would be enabling rather than ~~validating~~ <sup>enabling</sup> codes. (10) -

X

Some of the reassurances offered for Strategic Air Command practices become less reassuring once one realizes that they cannot possibly apply to tactical forces. For example, one reads that nuclear weapons on board B-52's must be activated in flight, involving the cooperative effort of several crewmen. This seems an elementary precaution against an accidental explosion if the plane were to crash, as well as one additional reinsurance against mad insubordination by a single member of the B-52 crew, e. g. the Aircraft Commander. Yet one surely cannot have the same practice on tactical aircraft of the U. S. or West German Air Forces flown by a single pilot.

None of this, of course, so directly addresses the risk of insubordination at a higher, senior-officer level. Concern about insubordinate generals launching a nuclear war probably peaked at the end of the 1950's, as exemplified in the novels Red Alert and Fail-Safe, and the movie Dr. Strangelove, afterward converted into a novel. (11) Each of these scenarios dealt with the U. S. bomber force, which for various reasons seemed to excite more concern than missile forces. The bombers were continually flown toward the USSR, to be turned around at a specified point still far from Soviet territory, but nonetheless suggesting a certain momentum that might always need to be stopped. Bombers moreover move up to higher alert statuses during crises, while missiles just continue to rest easy in their underground sites. ~~\_\_\_\_\_~~ not

not — The sheer novelty of nuclear weapons may also have excited more concern, and more fear, in the early 1960's than at present. In Fail-Safe, the cause of war was simple, a malfunctioning condenser in a communications TP



machine, accidentally sending out a signal to despatch American bombers past their turn-around point, on into the USSR. It was relatively easy to demonstrate the astronomical odds against this ever happening. Dr. Strangelove and Red Alert were more germane to our purposes, as conscious human insubordination played an important role in each case. In Dr. Strangelove, a psychotic Air Force General was able to despatch his bombers into the USSR with a special code which had been provided for the contingency of the President's death in a Russian sneak attack, despatching them in a manner which cancelled any further reliance on "fail-safe" signals and any further vetoes from Strategic Air Command headquarters. In Red Alert, a similar general applied elaborate technical stratagems to override the fail-safe system which normally should have called the bombers back.

No  
No

A second wave of concern has hardly been surprising, after the disclosures that General Lavelle as commander of U. S. Air Force operations in Vietnam deliberately disobeyed orders to launch "protective reaction strike" bombings of North Vietnam in 1972. To be sure, we will all rate this as less serious than an insubordinate launching of nuclear warfare. Yet the career recruitment and training processes that produced a General Lavelle are the same ones that produce the senior officers in charge of Minuteman Missiles. Have we overrated the respect for legal authority that presumably guards against an unwanted war? If the malfunctioning condenser of Fail-Safe was too unlikely, can we really rule out Dr. Strangelove's malfunctioning psychotic General Jack D. Ripper? Perhaps, as the various accounts would have it, there is enough backup also of Generals and Admirals checking each other, although no one was quick to check General Lavelle. And who checks the President?

### Controlling the President

Yet a very different kind of question <sup>might</sup> ~~may~~ capture our imagination, ~~as~~ now that the United States passes through the <sup>beginnings</sup> ~~thence~~ of an impeachment debate.

Could a President elect to launch a nuclear war as he lashed out at the personal misfortune of such an impeachment. What is there legally, or physically, or socially to veto such a war?

The United States Constitution was obviously written too early to differentiate between nuclear and conventional weapons. If the President is entitled to initiate any kind of hostilities, therefore, he is entitled to initiate nuclear war. A formal Congressional Declaration of War might seem tidier, but United States military forces have by now been often enough involved in hostilities without such a declaration. Self-defense in face of an alleged enemy attack has always seemed to legitimate this. War has moreover not been declared by the U. S. Congress since the end of World War II.

It is similarly not clear that Congress has effectively sealed off the nuclear war option in any of its recent acts intended to curb Vietnam-type conventional wars. Logically the Congressional ban on the use of funds for combat operations in Cambodia, Laos and Vietnam of June 1973 would forbid nuclear strikes against these countries, but the rest of the world remains open to attack without any explicit Congressional ban. (12)

Recent testimony of the Commander of the Pacific Forces (Cincpac) moreover suggests that U. S. military officers would obey a Presidential order for resumed conventional war even in face of the above Congressional action.

The "War Powers" limitation of November 1973 by comparison indeed lets



the President conduct a war (conventional or nuclear) for 60 or 90 days without Congressional approval, with the proviso that the Congress can take positive action to terminate it within this time; <sup>(13)</sup> all in all this is also not much of a brake on the President's nuclear option.

As noted, one assumes that the President does not have a direct physical capability for firing off missiles. He presumably cannot simply press a button which begins World War III with no further human participation by members of the U. S. armed force. (Given the proclivity of White House staff members to press the wrong buttons on tape recorders, ~~they~~ God help us if such a button really existed.)

How many intervening layers of possibly resistant humanity does he have to pass through, therefore? If the President simply can pick up a telephone and talk directly to hundreds of missile silo officers, he would de facto have a veto-proof war-launching capability, for at least some of such officers would obey his orders, even if others balked. After all, the U. S. Constitution would steer them to obey more than to disobey, even if humanity and common sense would steer them otherwise.

More probably, the President's order would first have to pass through several layers of headquarters involving high-ranking Air Force and Navy officers, before it was indeed diffused to reach any Minuteman sites or Polaris submarines. If there were no plausible explanation for nuclear war other than that the President had gone berserk in face of impeachment, one supposes or hopes that some General or Admiral would become insubordinate enough at this point to prevent nuclear war from being launched. Yet one hesitates to rate this as a certainty; and what if there were some plausible crisis, for example in the Middle East, to lend a slight trace of credibility or legitimacy to the President's command?

*John Masada Option*

We must also consider the possibility that what served as a safeguard for one contingency may have eliminated a safeguard for the other. Having several Air Force Generals and Admirals redundant to, and checking, each other may keep any particular officer from launching a war. But might this not offer the President alternative channels so that he as Chief Executive can bypass any General who wished to prevent World War III? A mad President does not need to fire off all the nuclear force to achieve his purposes, or to win the subordination of all his officers; he only needs some.

It is in this connection that the real-life example of Richard Nixon's departure from office becomes most interesting, and only partially reassuring. Defense Secretary James Schlesinger is reported to have been concerned about some of the possibilities discussed here in the final weeks before the Nixon resignation.<sup>(14)</sup> As always there were two sides to the worry. What if the President, for no good reason, ordered some menacing move with nuclear weapons? But, what, instead, if the President had good reason to make a move because of international events, but the American public questioned these reasons, assuming political trickery or psychological aberration on the President's part? Some of such public reaction had indeed already occurred at the time U. S. strategic forces were alerted during the Arab-Israeli war on October, 1973. (Not so directly related to nuclear war, Secretary Schlesinger was also reportedly concerned about the inherent possibility of Presidential moves ordering the American military to stage a coup on the Latin American pattern, perhaps to prevent the Congress from moving ahead with impeachment; the Secretary is said to have speculated about the comparative loyalty to the constitutional process of different branches of the armed forces.)

Schlesinger apparently relieved some of his concern by issuing directives

(Hersh note)



and  
for  
coups!  
assess!  
(C.I.U.)

that any unusual orders from the White House were to be referred back to him for verification during these final weeks, in effect seeking to consolidate and establish the veto on nuclear initiatives which our above analysis suggests is lacking. Yet the legality and constitutionality of the Secretary's action is hardly clear. The President was elected while the Secretary was not. History is replete with instances of Presidents ~~S~~ bypassing their Cabinet officers to issue a direct order, direct orders which were obeyed, direct orders which by law should have been obeyed. In the defense area itself, orders for the bombing of Cambodia had apparently very recently moved from Nixon's White House directly to the Joint Chiefs of Staff and the implementing military agencies without any reference to Defense Secretary Melvin Laird. Schlesinger's moves may or may not have been well-taken, but they hardly ~~can~~ settle the constitutional and practical ramifications of controlling the President on the use of American nuclear weapons.

To return to the question of Presidential Succession, the 25th Amendment to the United States Constitution established a process whereby an incumbent President might be found to have temporarily or permanently lost his ability to serve. This might hold in the case of grievous bodily illness, or an incapacitating stroke, or some form of pronounced mental illness. The Amendment requires that the finding of disability be made by "the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide." Does this serve, or can it serve, as a pretext for cabinet officials or military officers postponing execution of a Presidential order for a nuclear war, or also perhaps his order for a military coup? Military officers might surely feel justified in anticipating such a finding of disability by the Vice President and Cabinet, and restraining the nuclear forces accordingly. Legal purists might instead

want to have "Congress provide" some more formalized check here, not requiring  
Generals to rely quite so much on their Judge Advocate's legal advice. And  
still there is the question of who can coordinate the conclusion that the  
President has been disabled

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in time to head off a nuclear strike; "the Vice President and a majority" may be too diffuse a body, as may even be "the Joint Chiefs of Staff" or "the commanders of the strategic nuclear forces."

#### What Is To Be Done?

If we know less than we would like to know about American ~~vetoes~~<sup>toes</sup> on nuclear war, what of the other nuclear powers, the USSR, Britain, France, China, and India, in order of appearance?

There was a time when the USSR devoted a good portion of its propaganda to alleged defects in American command and control procedures, attacking U. S. bomber flights with weapons on board, criticizing the deployment of missile submarines. Since the Russians were for a time slow to deploy many missile submarines of their own, one guessed that they were more seriously concerned with the greater command and control problems that might be involved here. More recently, of course, the Russians seem to have shaken off any inhibitions about deploying a large fleet of submarines carrying nuclear missiles.

Do we know much more about British or French or Chinese or Indian policies? We know that Britain can have periods with no Prime Minister, as can France, while China can have Cultural Revolutions. It has been noted that nuclear weapons have already been brandished within domestic power struggles in France and China. Ironically enough, India, poor as it is, has the most stable record of national leadership among the "nuclear powers."

*Gandhi*  
*"cont"*

If the United States, in some ways still the most open nation in the world with information about its governmental processes, leaves us so much in the dark about nuclear command and control procedures, it does not

seem likely that we will quickly learn all that is required to reassure us against berserk leaders in Moscow or Peking or Paris or Delhi.

What is to be done? One can imagine moving for clarification by means of international negotiations, or through U. S. constitutional processes. The Chinese, to their credit, have proposed a blanket no-first-use policy. Their statements have very explicitly proclaimed that China will never use nuclear weapons first, under any and all circumstances. Presumably this has included scenarios of 500,000 Americans invading China from the south, or one million Russians advancing on Peking from the north. We would have to leave it to conjecture whether the Chinese would really keep to such a self-proclaimed restraint. The French have certainly never offered to hold back their nuclears if Paris were threatened, and the British would probably escalate in defense of London. The USSR and U. S. similarly would not tolerate another capture of Moscow or Washington, on the pattern of 1812 or 1814.

Yet what if the general policy of no-first-use came to seem more reasonable? If the Chinese are serious, this is one question on which they might be prepared to sit down to genuine arms control negotiations. And perhaps such a discussion could then be broadened into an international agreement reinsuring against all forms of unauthorized use, guarding against insubordinate missile launches by Lieutenants of all the nuclear powers, and even against personal aberrations by single members of the Chinese or French or Russian or British or American leaderships.

The U. S. has already shown some such "collective leadership" vigilance on some aspects of atomic energy. The Congressional Joint Committee



on Atomic Energy has been an unusually powerful and privileged committee, in part because of the great importance Americans imputed to the nuclear technology question almost from the day of Hiroshima. The Committee has held the authority to review agreements for peaceful and military nuclear cooperation with foreign countries for thirty days before such agreements can be implemented, with the right to veto such agreements during that time. <sup>(16)</sup> The Committee in addition has held broad investigative powers, indicating the seriousness with which Americans treat at least a part of the nuclear problem.

Such procedures for Congressional veto have been held constitutional by the U. S. Supreme Court, and might well be adapted to our problem here. <sup>(17)</sup> Perhaps we would want to go so far as to require that no American nuclear warhead ever be fired without the concurrence of the Chairman of the Joint Committee on Atomic Energy, and/or of one or both the Armed Services Committees, or of the Senate Foreign Relations Committee together with the House Foreign Affairs Committee. Perhaps we would instead want to require that a proposal to fire such weapons be placed on the table for such Committees or their Chairmen to consider, with a proviso that the weapons be fired if no Congressional objection intervene to veto the operation within three days, or a week, or thirty days. If the Russians had been so foolish as to wipe out the U. S. Congress with a missile targetted on the Capitol, this presumably would mean that retaliation would come along unvetoed in due course.

One doubts that the U. S. government and public will have the stomach to establish such procedures by formal constitutional amendment; it would be truly novel to have any reference in the Constitution that discriminated

between nuclear and non-nuclear weapons. Yet the authority of the Congress to direct and limit military operations may already be sufficient.

If the MacMahon Act could forbid a President to give nuclear weapons away to foreigners, a parallel Act of Congress might forbid him to use nuclear weapons without specific Congressional approval.

This verges on arguments in support of a no-first-use policy for American nuclear weapons. If one favored such a policy, it would be so much easier to wish to tie the President's hands on nuclear war in general. The choice becomes more difficult if one is against so explicit a policy, in particular for the deterrence of attacks on Western Europe. To make Soviet aggression against West Germany remain unlikely, we may wish to extract something from "the threat that leaves something to chance," from the possibility that nuclear weapons would somehow come into use even if the Russians had not yet used their nuclears as their tank forces were rolling forward. Our uncertainty about controls on the President, or controls on Generals and Admirals and Commanders and Majors, is in part the price we pay for this added layer of deterring uncertainty.

*and now*  
*yes! with CF*  
*non-control*  
*EU*  
*superiority*  
*as "price" of defending NATO (and ME!)*  
*without adequate non-nuc means.*



Notes

1. Fred Charles Ikle, "Can Nuclear Deterrence Last Out the Century?" Foreign Affairs, LI, 2 (January 1973), 267-285. ✓
2. See chapter by Bill D. Moyers, "Command and Control" in Abram Chayes and Jerome B. Wiesner, ABM (New York: Signet, 1969), pp. 101-4. ✓
3. Appears in United States Arms Control and Disarmament Agency, Documents on Disarmament 1964 (Washington: U. S. G.P.O., 1965), p. 431.
4. United States Arms Control and Disarmament Agency, Documents on Disarmament 1968 (Washington: U. S. G.P.O., 1969), p. 248.
5. See, for example, Lloyd Mallan, Peace is a Three-Edged Sword (Englewood Cliffs, N. J.: Prentice Hall, 1964), and Stanley L. Englehardt, Strategic Defenses (New York: Thomas Y. Crowell Company, 1966). ✓
6. Thomas C. Schelling, The Strategy of Conflict (Cambridge: Harvard University Press, 1960), pp. 205-54.
7. Mallan, op. cit., pp. 9-10.
8. Englehardt, op. cit., pp. 154-55.
9. Ibid., p. 154.
10. See Joel Larus, Nuclear Weapons Safety and the Common Defense (Columbus: Ohio State University Press, 1967), pp. 82-86, and Harold L. Nieburg, Nuclear Secrecy and Foreign Policy (Washington: Public Affairs Press, 1964), pp. 192-96.
11. Peter Bryant, Red Alert (New York: Ace Books, 1958), Eugene Burdick and Harvey Wheeler, Fail-Safe (New York: McGraw-Hill, 1962), and Peter George, Dr. Strangelove (New York: Bantam Books, 1963).
12. The New York Times, July 1, 1973, p. 1.
13. The New York Times, November 7, 1973, p. 1.
14. See description by Herman Kahn, On Thermonuclear War (Princeton: Princeton University Press, 1961), pp. 205-10.
15. See Nieburg, op. cit., p. 44.
16. See Joseph Cooper, "The Legislative Veto: Its Promise and its Perils," Public Policy, 7 (1956), 128-174.
17. The New York Times, August 25, 1974, p. 1. ✓